

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 29-50 and 54-56 are pending in this application, of which Claims 29, 49 and 54 are amended. Support for the changes to the claims is found in the originally filed disclosure and discussed below. No new matter is added.

In the outstanding Office Action, Claim 54 was rejected under 35 U.S.C. § 112, first and second paragraphs; Claims 29, 32-39, 43, 46-50 and 54-56 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. 6,593,956 (Potts); Claims 30 and 31 were rejected under 35 U.S.C. § 103(a) as unpatentable over Potts in view of U.S. 6,408,301 (Patton); Claims 40-42 were rejected under 35 U.S.C. § 103(a) as unpatentable over Potts in view of U.S. 6,297,846 (Edanami); and Claims 44 and 45 were rejected under 35 U.S.C. § 103(a) as unpatentable over Potts in view of US 2003/0035479 (Kan).

A telephone interview was conducted with Examiner Chen on September 16, 2010, to discuss the Office Action and the claimed invention. Applicant thanks the examiner for his time and comments.

At the interview, amendments to the claims were proposed, which are consistent with those submitted herewith. Examiner Chen indicated that such amendments may clarify the claimed invention over Potts and overcome the rejections under 35 U.S.C. §112, but stated further consideration and/or search. Accordingly, this Amendment is filed with a Request for Continued Examination to have the Amendment entered and considered.

As to the rejections under 35 U.S.C. § 112, first and second paragraphs, Applicant respectfully disagrees with the allegations that Claim 54 fails to comply with the written description requirement and that the claimed means for transmitting the program code for execution has not corresponding structure in the specification. Regardless, to expedite

prosecution of this application, Claim 54 is amended to replace the means for language with the element “a network.” Support for the same is found in the originally filed application, including the original claims, the drawings at least in Figures 23 and 24 and the specification at least from page 35, line 32 to page 36, line 11. As result of this Amendment, it is respectfully submitted the rejections under 35 U.S.C. § 112, first and second paragraphs, are overcome and should be withdrawn.

As to the rejections under 35 U.S.C. § 103(a), those rejections are respectfully traversed in view of the amended language in the independent claims. In particular, Claim 29 is amended to specify that the face detector is responsive to a lens focus and a zoom setting to determine a distance of a face from a camera. Support for this feature is found in the originally filed application, including the original claims and the specification at least at page 28, lines 14-17. No new matter is added.

The Office Action at page 2 states Potts does not expressly teach that a lens focus value is used for the range or zoom determination, but that it would have been obvious to a person having ordinary skill in the art to have understood that the zoom position is directly tied to the lens focus, and that an accurate lens focus is required to obtain an accurate range value for the location module in Potts. Applicants respectfully disagree.

Potts merely infers that the camera described therein has an auto-focus feature.¹ Potts is otherwise silent regarding focus settings.

Moreover, to obtain an accurate range or distance value of a speaker in Potts, an audio based locator is used. In particular, the audio based locator performs a distance measurement. As discussed in column 8, lines 15-20 and lines 41-44 of Potts, the calculated distance is used to determine a camera pan, tilt and zoom for an appropriate camera shot or

¹ Potts, col. 13, lines 30-31.

framing. Consequently, Potts describes a different method of determining a distance of a speaker than that which is recited in the independent claims.

In particular, the independent claims require face detecting to be responsive to a lens focus and a zoom setting to determine a distance of a face from the video camera, whereas Potts describes a system in which optical zoom is determined based on at least a range of the speaker from the camera, which is determined with an audio based locator from detected speech of a speaker.

As to the comments in the Office Action at the bottom of page 2, it is respectfully submitted that zoom position is not inherently directly tied to a lens focus. A similar statement is made again at page 5 of the Office Action. In view of these sections, it appears the Office has confused or misstated the zoom position as a depth of field setting. A depth of field is directly tied to a lens focus, whereas a zoom position is a magnification and framing characteristic. In other words, a depth of field setting is a lens focusing characteristic that is independent of a zoom position.

More to this point, it is unclear how a person having ordinary skill in the art at the time of invention, with merely an understanding of the connection between zoom, depth of field, and lens focusing would result in the modification of Potts to remove the audio based locator described therein and replace the functionality of the same with the claimed distance detecting mechanism from optical properties.

Referring back to page 5 of the Office Action, the Office states a camera lens is focused by changing a zoom position. This is not correct. A zoom position is a magnifying and framing characteristic of an image. Assuming this image incorporates several objects of varying distances from the camera, any of those objects can be focused while maintaining the same zoom position.

For example, assuming there are two objects, a close object and a far object, the close object can be focused on while the far object is defocused (called a shallow focus). Further, the far object can be focused on while the close object is defocused (called a deep focus). Additionally, an even deeper focus can be used which focuses on both the close and far objects, but at a loss of sharpness in comparison to the individual focusing.

Nonetheless, as noted above, Potts clearly states that a distance measurement between a speaker and the camera is determined using an audio based locator, which is in contrast with the claimed invention. For these reasons, it is respectfully submitted the rejections under 35 U.S.C. § 103(a) in view of Potts of Claims 29 and 49 are deficient and should thus be withdrawn.

Should the Examiner disagree, the Examiner is encouraged to contact the undersigned to discuss any of the above issues. Otherwise, it is respectfully submitted no issues remain pending in this application and this application is in condition for allowance. Therefore, a timely Notice of Allowance is respectfully requested.

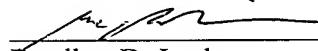
Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, L.L.P.

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413-2220
(OSMMN 07/09)



Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Marc A. Robinson
Registration No. 59,276